IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 17754 of 2004

Between:

K. Venkataiah, S/o. Anantaiah, aged about 48 years,
R/o. H.No.8-1-368/1A, RTC Colony, Nalgonda,

Nalgonda District.

..... PETITIONER

AND

1. The Regional Manager, APSRTC, Nalgonda Region,

Nalgonda District.
2. The Depot Manager, APSRTC, Devarakonda Bus Depot,

Nalgonda District.
3. The Depot Manager, APSRTC, Yadagirigutta Bus Depot,

Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of respondent not paying the salary to the petitioner by computing the notional increments from the date of termination till the date of reinstatement (i.e., w.e.f. 9.3.1998 to 4.11.2001) as illegal, arbitrary and unjust and consequently direct the respondents to pay the salary to the petitioner by computing the notional increments from the date of termination till the date of reinstatement (i.e., w.e.f. 9-3-1998 to 4-11-2001).

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the stage of admission made the following :

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THE HONOURABLE DR.JUSTICE G.YETHIRAJULU

Writ Petition No. 17754 of 2004

ORDER:

The petitioner is working as a Conductor in the respondents-Corporation. He was issued a charge sheet alleging certain cash and tickets irregularities. Subsequently, an enquiry was conducted and through the proceedings dated 09.03.1998 he was removed from service. As per the award dated 16.08.2001 of the Industrial Tribunal (Labour Court-III) Hyderabad in I.D.No.151 of 1999, the petitioner was reinstated in service on 04.11.2001. But, the continuity of service to the petitioner was not extended as per the direction of the Labour Court. The petitioner, therefore, approached this Court through this writ petition, seeking a direction to the respondents-Corporation to fix the notional increments for the out of service period and to fix his pay for the period subsequent to his reinstatement.

2. The award of the Labour Court indicates that on reinstatement, the petitioner is entitled for continuity of service, without back wages. A Division Bench of this Court in *Regional Manager, A.P.S.R.T.C., Nizamabad v. B.Chander Rao* held that the employee is entitled for notional increments, in pursuance of the order of the Labour Court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in *A.P.S.R.T.C. & Another v. S.Narasa Goud*, wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorised absence unless the same is regularised. The Division Bench relied on another judgment of the Supreme Court in *Devendra Pratap Narain Raj Sharma v. State of U.P.* and gave the above direction.

3. In the light of the judgment of the Division Bench in *B.Chander Rao* (1 supra) and

in the light of the order of the Labour Court extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay for the period from the date of termination till the date of reinstatement.

4. In the result, the writ petition is allowed. No costs. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this Order.

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Dr.G.YETHIRAJULU, J

Date: 1st October, 2004.

Cs

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Regional Manager, APSRTC, Nalgonda Region, Nalgonda District.

2. The Depot Manager, APSRTC, Devarakonda Bus Depot, Nalgonda District.

3. The Depot Manager, APSRTC, Yadagirigutta Bus Depot, Nalgonda District.

4. Two C.D. copies.